

**Supporting Statement for  
30 CFR Part 218, Subpart B—Oil and Gas, General  
(Forms MMS-4425 and MMS-4280)  
(OMB Control Number 1010-0107)  
(Expiration Date: May 31, 2002)**

**A. Justification**

**1. What circumstances make this collection of information necessary?**

The Secretary of the U.S. Department of the Interior (DOI) is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The Minerals Management Service (MMS) performs the royalty management functions for the Secretary.

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to assure that the royalties are paid appropriately.

The Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA), Public Law 104-185, as corrected by Public Law 104-200, established that owners of operating rights or lease record title (referred to as “lessees”) are responsible for making royalty and related payments on Federal oil and gas leases. It is common, however, for a payor rather than a lessee to make these payments. When a payor makes payments on behalf of a lessee, RSFA section 6(g) requires that the lessee designate the payor as its designee and notify MMS of this arrangement in writing (Attachment 1). These RSFA requirements are codified in 30 CFR 218.52 (Attachment 2). Payors must inform MMS--by submitting Form MMS-4425 (Attachment 3)--that they have designated another person to make their royalty payments for them.

Regulations at 30 CFR 218.53 (Attachment 4) provide requirements that payors must follow to recoup overpayments on Indian mineral leases. These regulations are necessary for MMS to carry out its Indian trust responsibilities. Generally, a payor may recoup an overpayment on the Report of Sales and Royalty Remittance (Form MMS-2014) against the current month’s royalties or other revenues owed on the same lease. However, § 218.53(b) allows payors with written permission from the Tribe to recoup overpayments in the same month against a different lease for which the Tribe is the lessor. The payor must furnish a copy of the Tribe’s written permission to MMS.

The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) at 30 U.S.C. 1723 (Attachment 5), authorizes the Secretary of the Interior to pay a reward to certain individuals who provide information to the Government leading to the recovery of royalty or other payments owed to the United States from oil and gas leases on Federal lands or the Outer Continental Shelf. Criteria and procedures covering claims for and payment of rewards are provided at 30 CFR 218.57 (Attachment 6). In order to claim a reward, individuals must voluntarily, and of their own initiative, submit Form MMS-4280, Application for Reward for Original Information (Attachment 7), to the MMS.

## **2. How, by whom, and for what purpose will the information be used?**

Submission of Form MMS-4425 is necessary to comply with RSFA requirements to notify MMS in writing when a Federal lessee wishes to designate a designee. A designee (payor) then has the right to report, pay, adjust, recoup, etc. mineral revenues in accordance with existing laws, regulations, and procedures. Lessees are assured that when designees pay on their behalf, they will get credit for the payments made. Also, MMS is able to notify the lessee promptly when an amount due on a lease is unpaid.

Submission of written Tribal permission to recoup overpayments against a different Tribal lease allows payors to recoup overpayments when revenues are not available on the same lease. Requiring a copy of Tribal permission assures MMS that the Tribal lessor is in agreement with the recoupment.

Submission of Form MMS-4280 is necessary to comply with FOGRMA requirements for the Secretary to pay rewards for information that leads to recovery of additional revenues. MMS uses the information on Form MMS-4280 to determine and pay rewards, to control reward applications, and to report a claimant's reward as taxable income to the Internal Revenue Service.

## **3. Does the collection involve the use of information technology, does it reduce the burden, and to what extent?**

The use of improved information technology is not applicable for this information collection. Our Government Paperwork Elimination Act Plan indicates that we will be evaluating Form MMS-4425 for conversion at some future date. However, the project containing this form has not been scoped or planned in detail, and no funding has been allocated at this time. MMS receives too few Forms MMS-4280 and Tribal resolutions to be economically efficient to convert them to electronic submission. However, MMS offers electronic copies of Forms MMS-4425 and MMS-4280 on our Internet web site for respondents to print and complete.

## **4. Is the information duplicated by any other Federal agency, and can similar information**

**be used or modified for this collection?**

The Bureau of Land Management (BLM) and MMS's Offshore Minerals Management (OMM) require, for Federal onshore and offshore leases respectively, that operating rights owners and lease record title owners file with them. However, there is no information collected by any other agency that links payors and lessees as necessitated by RSFA. Therefore, the information submitted on Form MMS-4425 is unique. Tribal resolutions to allow payors to recoup overpayments on a different lease, as well as situations that culminate in a request for a reward, are also unique to MMS.

**5. What is the agency doing to minimize the burden on small businesses or other small entities?**

We recognize the collection of information on Form MMS-4425 impacts small businesses and, therefore, attempted to minimize the burden for all respondents, including small businesses. The approach we adopted to collect Form MMS-4425 information was an outgrowth of meetings held with representatives of the oil and gas industry and States shortly after RSFA was enacted (August 13, 1996). We have provided clear instructions and identified individuals in our program to assist respondents with any problems or questions they encounter to complete the designation form. Additionally, the Secretary established the Royalty Policy Committee (RPC), made up of State and industry representatives, to advise the MMS on ways to lessen industry burden. The RPC made specific recommendations on ways to lessen the burden on industry, and we have accepted and adopted all of their recommendations. Tribal permission to recoup overpayments against a different lease and requests for reward rarely, if ever, impact small businesses.

**6. What are the consequences to the Federal program or policy activity if the information is not collected or is collected less frequently; and are there any technical or legal obstacles to reducing the burden?**

The information requested on Form MMS-4425 is necessary for MMS and the oil and gas industry to comply with RSFA. RSFA clearly establishes the lessee as responsible for making royalty and related payments on Federal leases. Under RSFA, the operating rights owners are primarily liable for payments to MMS, and the owners of lease record title are secondarily liable. Without this information, it would be very difficult and expensive for us to identify lessees for whom payors make payment. Tribal resolutions allowing payors to recoup overpayments against a different lease are very infrequent. Payors could not always recoup overpayments if this exception were not allowed. Forms MMS-4280, Requests for Application for Reward for Original Information, are collected very infrequently. Failure to collect the information on Form MMS-4280 would prevent MMS from complying with FOGRMA requirements to pay rewards.

**7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2) requiring respondents to: (i) report more often than quarterly, (ii) prepare written**

**responses in fewer than 30 days after receipt, (iii) submit more than an original and two copies of any document, or (iv) retain records for more than 3 years?**

This collection of information is consistent with the provisions at 5 CFR 1320.5(d)(2)(i) through (iv) except for: (i) Form MMS-4425 respondents may be required to report information to us more often than quarterly. For example, if a lessee designates a new/different payor for a given lease, then the lessee must immediately complete and submit a designation form; and (iv) RSFA section 4(f) requires that Federal lessees maintain records for 7 years after the obligation becomes due.

There are no special circumstances with respect to 5 CFR 1320.5(d)(2)(v) through (viii), as the collection is not a statistical survey and does not use statistical data classifications; nor does it include a pledge of confidentiality not supported by statute or regulation or require proprietary, trade secret, or other confidential information not protected by agency procedures.

**8. What efforts did the agency make to consult with the public and a representative sample of respondents?**

As required in 5 CFR 1320.8(d), MMS published a 60-day review and comment notice on January 16, 2002 (67 FR 2235) in the Federal Register (Attachment 8). We did not receive any comments on this notice. We maintain regular contact with respondents to this information collection by providing telephone assistance over toll-free lines and answering questions regarding these forms. To date, there have been no comments relating to the burden of collecting this information.

**9. Will payments or gifts be provided to respondents?**

No payments or gifts will be provided to the respondents.

**10. What assurance of confidentiality is provided to respondents?**

Commercial or financial information submitted to DOI relative to minerals removed from Federal and Indian leases may be proprietary. Trade secrets and proprietary information are protected in accordance with standards established by the Federal Oil and Gas Royalty Management Act of 1982, as amended (30 U.S.C. 1733), the Freedom of Information Act (5 U.S.C. 552(b)(4)), and Department regulations (43 CFR 2). The Indian Minerals Development Act of 1982 (25 U.S.C. 2103) provides that all information related to any Indian minerals agreement covered by the Act in the possession of the Department shall be held as privileged proprietary information. Storage of such information and access to it is controlled by strict security measures.

**11. Does the information collected include any questions of a sensitive nature?**

None of the information requested is considered sensitive.

## 12. What is the estimated reporting and record keeping “hour” burden?

The estimated annual reporting burden for this information collection is 1,207 hours. At an hourly rate of \$50, the total estimated cost to respondents is \$60,350. There are no additional recordkeeping costs associated with this information collection. See the following chart for a breakdown of the burden estimate by CFR section and paragraph.

30 CFR Section	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
218.52 (a), (c), and (d)	If you are a lessee under 30 U.S.C. 1701(7), and you want to designate a person to make all or part of the payments due under a lease on your behalf * * * you must notify MMS * * * in writing of such designation * * *. If you want to terminate a designation * * * you must provide [notice] to MMS in writing * * *. MMS may require you to provide notice when there is a change in your record title or operating rights ownership.	.75	1,600	1,200
218.53(b)	With written permission authorized by tribal statute or resolution, a payor may recoup an overpayment against royalties or other revenues owed * * * under other leases * * *. A copy of the tribe’s written permission must be furnished to MMS * * * *	1	6	6
218.57(a) and (b)	If a person has any information he or she believes would be valuable to MMS, that person * * * should submit the information in writing, in the form of a letter * * *. The informant should provide all data * * *. To file a claim for reward, the informant must: (i) Notify the Director, MMS * * * that he/she is claiming a reward. (ii) Request an Application for Reward for Original Information” (Form MMS-4280) * * *. File a claim for reward by completing Form MMS-4280, sign it * * * and mail or deliver it in person to the Director * * *. the person should attach proof to the claim that he or she is the person who gave the information * * *.	1	1	1
Total			1,607	1,207

## 13. What is the estimated reporting and recordkeeping “non-hour” cost burden of the collection of this information, excluding any costs identified in Items 12 and 14?

We have identified no reporting or recordkeeping “non-hour” cost burdens for this collection of information.

## 14. What is the estimated annualized cost to the Federal Government?

The total annualized cost to the Federal Government is approximately \$24,075 calculated as follows:

- 15 minutes to process each Form MMS-4425 for a total cost of \$20,000 (1,600 responses X .25 hours X \$50/hour).
- 15 minutes to process each Tribal approval for a payor to recoup an overpayment against a different Tribal lease for a total cost of \$75 (6 responses X .25 hours X \$50/hour).
- 80 hours to process each Form MMS-4280 for a total cost of \$4,000 (1 response X 80 hours X \$50/hour cost).

**15. Is the agency requesting any program changes or adjustments reported in Items 13 and 14 of the Form OMB 83-I?**

The current OMB inventory of 8,625 burden hours is being adjusted downward to 1,207. This reduction of 7,418 hours is due to a recalculation of the number of Forms MMS-4425 that MMS expects to receive in a year based on actual experience in the 3 previous years and the addition of 7 hours to account for the burden of submitting Forms MMS-4280 and written tribal permission to recoup overpayments against a different lease.

**16. Are there plans for tabulation and publication of the results of the information collection?**

The data collected will not be tabulated and published for statistical use.

**17. Is the agency seeking approval to not display the expiration date?**

No. We will display the expiration date of OMB's approval on Forms MMS-4425 and MMS-4280.

**18. Is the agency requesting exceptions to the certification statement in Item 19 of Form OMB 83-I?**

To the extent the topics apply to this collection of information, we are not requesting exceptions to the "Certification of Paperwork Reduction Act Submissions."

**B. Collections of Information Employing Statistical Methods**

This section is not applicable. We will not employ statistical methods in this information collection.